

KITTERY PORT AUTHORITY
September 3, 2015 Meeting Minutes
Council Chambers, Town Hall

Members Present: Kelly Philbrook, Ann Grinnell, Steve Lawrence, Ray Grenier, Mark Drummond, Peter Whitman and Bruce Crawford

Members Absent: None

Staff: Harbormaster Derek Jacobs

Meeting began at 6:00 p.m.

1. Pledge of Allegiance

2. Minutes: August 6, 2015

Mr. Lawrence moved to approve the minutes of the August 6, 2015 meeting.

Mr. Grenier seconded

Carried: 7-0-0

3. Harbormaster's Report: Derek Jacobs

- **Budget & Revenues**
Derek noted that Cindy is currently out of the office so he will email the revenues to the Board members once she returns.
- **Projects Ongoing**
Derek commented that September 14th is the target date for the completion of the hoist project. In addition, he recommended some float out dates, noting that the tides are best at the end of October.
- **Other**
Derek commented on a \$500 donation received from the representatives from Charter who use the facilities behind Traip Academy for a project with the Shipyard. Derek will be talking to the financial advisor to see what the protocol is for donations such as these.

Derek noted that Christopher Evancic has just about completed his internship. He thanked him for his work. He added that the Pepperrell Cove cameras have been on and off lately because the internet has been spotty. He noted that they are up and running now and have been moved so they are looking at the facility from the boat ramp to Fort Foster. Derek spoke with Maryann about putting a link on the Town website to view the cameras. He noted that the waitlist and database are also going to be added to the website. Mr. Whitman asked Derek if the cameras are recording and Derek responded that they are on a closed circuit to the Police Department. Mr. Whitman asked what the time frame is for the loop and Derek responded that it is 30 days.

Derek commented on the letters written for the double moorings. He noted that they had been sent via email with mostly positive responses. He added that the Badgers Island

Marine letter has been drafted but he is waiting for legal advice. He added that he has completed the draft of the SOP (Standard Operating Procedure) for Kittery Fire Fighters' use of the boat. He is currently circulating the draft and scheduling training. He noted that the SOP is a catchall for protection for everyone and includes a log of who uses the boat. Mr. Whitman asked if they could put the log in place now and not wait until the training has been completed. Derek agreed and stated that he would take care of it.

Derek noted that they recently took out and cleaned two hoists that were in storage. One works well and the other one, which is larger, does not. They are considering selling the larger, broken one at the DPW auction that is coming up since, even if they do pay to have it fixed, it would not work in the KPW facility without electrical upgrades. Mr. Lawrence asked for clarification on which hoist they were selling and Derek responded that they would be selling the larger one which they never made an effort to fix in the past and would not work for them anyway.

Mr. Lawrence asked Derek who pays for the gas when the Fire Department uses the boat. Derek responded that the KPA is currently paying for the gas but he will talk to the Chief about changing that. Mr. Grenier asked if Derek could email out drafts of the SOPs and Derek said he would. Mr. Whitman asked Derek if there were going to be any minimum bids on the hoists at the auction. Derek responded that he was not certain but did not think that there were. He reiterated that the hoist had been in the corner of a shack for some time now and it would be no good to the KPA anyway. He added that he does not know how much the hoist is worth with the repairs that it needs. Mr. Whitman asked if the proceeds would go to the KPA and Derek confirmed that they would.

Mr. Whitman asked Derek about the purchase of chain folds. Derek commented that it is almost hurricane season and he has ordered a hoist but is looking at where to take the funds from. He noted that it may be in the big grant to have the purchase funded 100%. Mr. Whitman asked how much the hoist is and Derek informed him that it is \$500. Derek noted that they had to have this hoist because if they wait until hurricane season is here they will never get it in time. Mr. Whitman asked the Board if there was a specific procedure for purchases, even in emergency situations. It was noted that the Board needs to approve all purchases, emergency or not, even if they will be 100% funded.

Mr. Lawrence moved to approve the spending of funds in the amount of \$500.00 to purchase a hoist. Ms. Grinnell seconded the motion.
Motion carried: 7-0-0.

Ms. Philbrook asked Derek when the auction was to be held and Derek responded that he would look into it further and send out an email. Mr. Grenier asked Derek how he was going to go about labeling and setting up the docks to go back into the water. Derek responded that he will letter them and put a system in place so that they will go back in better than last time. He will have it all graphed out. He noted that there is a number system in place now but he will make sure the numbers are better labeled on the docks and will have a master key to show where they go.

4. Pier's Wharfs and Floats

Application by Kittery Point Yacht Yard for an expansion of the existing dock system to create births for up to 15 transient boaters. To replace an existing marine railway with a new all-tide boat launch. Agent: Baker Design Consultants.

- Introduction/Overview of project from applicant
Barney Baker of Baker Design Consultants approached the podium to give a quick presentation of the project.

Mr. Baker noted that the application is for both shore side and waterfront improvements. The project has already been presented to the Planning Board and they had a site walk today. Applications have been submitted to the Army Corp. of Engineers and they have approved it. They have also submitted an application to Maine DEP, which is pending, and a preliminary submerged lands lease modification for signature. Mr. Baker commented that the property is formerly known as the Dion property and has also been a shipyard and yacht marine with upland servicing and storage. The yard currently has existing marina floats and a marine railway which can support large vessels. They focus more on recreational and smaller commercial boats now and have approximately 40 moorings in the river.

Mr. Baker noted that the project will take the marine railway out and put a boat ramp in. Tom Allen, the owner of the property, applied for and received a Boating Infrastructure Grant for the project. This application includes up to 15 transient boats and, in order to accommodate the boats, the marina facility will have to be expanded. There are currently approximately 2,240 sq. ft. of floats. In the proposed foot print, the upper side will get the BIG transient boats. The grant requires that the floats have ADA access which will be an 80 ft. ramp, only the second ramp of that size in Kittery.

Mr. Baker stated that the existing marine railway is at an 8% grade whereas the boat ramp design is best at a 15% grade. The steeper ramp allows you to get into the water quicker while starting at the same location. They will be putting a new boat ramp in where the marine railway ends. This will create an additional filled area where the boat launching trailer can rest out of the water. Mr. Baker noted that the more efficient slope will allow crews to launch the boats in a wider tide cycle. Mr. Baker added that they are also converting the old winch house to showers and toilets for transient boaters. Additionally, the expansion of the docks will be displacing three moorings. They will be adding pony docks to compensate.

- Discussion
Mr. Whitman asked what a pony dock is and Mr. Baker explained that it is a float out in the water that is tethered at two ends which allows two boats to occupy the same space. He added that when the tide turns, the pony dock does not rotate and stays in a smaller space. He noted that submerged lands said the pony docks are in KPA jurisdiction and that Tom Allen would own the docks and would be responsible for servicing them. He added that they are only in the water seven months out of the year since they are a temporary structure. Mr. Crawford asked if Mr. Allen owned the three moorings and Mr. Baker responded that the Town owns them. Mr. Allen commented that the yacht yard leases the moorings and the

moorings that would hold the pony docks in place are also leased from the KPA. Mr. Baker commented that the pony docks are a discussion point in this application but that it should not be a problem since there are three other pony docks in the river.

Ms. Philbrook commented that they have several floats in the back channel and the rule that the KPA established is that if you have a dock with two moorings and one boat, you pay one fee but if you put a float (also known as a pony dock) out there and it is used by two boats then you pay two moorings fees. She noted that they charge per boat when it comes to floating docks. Mr. Whitman requested that Mr. Baker elaborate on plans R-1 and R-2. Ms. Grinnell asked if the finger float on the new pier is nine ft. from the lot line. Mr. Baker responded that they did a survey and calculated the distance of all existing floats from the lot line. The Army Corp. says that if it is less than 25 ft. they need a letter from an abutter, which they have. Ms. Philbrook noted that they have approval from both properties. Mr. Crawford asked about the ground underneath the access floats to which Mr. Baker responded that they are sitting on substrate. Mr. Whitman asked if they would be doing any dredging to which Mr. Baker responded that they are not. Ms. Grinnell suggested that they schedule a site walk and a public hearing.

Mr. Lawrence moved to accept the application and to schedule a site walk for Monday, September 28 at 4:00 p.m. and hold a public hearing on Thursday, October 1st. Mr. Grenier seconded the motion.
Motion carried: 7-0-0.

Application by Jeffery Kolod 92 Whipple Road for an In-Kind repair replace of an existing sea wall. Agent: Baker Design Consultants.

Ms. Philbrook noted that Mr. Baker was hoping to have this approved as a repair in-kind. She added that the majority of the project is a repair replace in-kind but the wall will be extended to areas where there is currently not a wall, which makes the in-kind replacement questionable. She suggests that if they agree with the project, they write a letter and get the project going and if they need more then they schedule a site walk and public hearing.

- Introduction/Overview of project from applicant
Barney Baker of Baker Design Consultants approached the podium to give a brief presentation of the project.

Mr. Baker noted that the application is for a sea wall replacement and also involves a request to expand an existing shed on the waterfront. He noted that the Planning Board encouraged him to put the project before the KPA and he would like to have it considered as a replacement in-kind. He has submitted applications to Maine DEP, the Army Corp. and the Planning Board and they do not have any permits or approvals yet. He stated that the project started out as a sea wall replacement for the vertical rubble sea wall. He noted that they are experiencing more frequent storm events which is causing stress on the structure. They want to replace the wall with granite block which is a more natural material. There is a similar wall on the adjacent property. He noted that the wall would go completely across the frontage and they would be taking the wall down and putting one in its place.

Mr. Baker noted that the marine railway has stacked up rocks to create a gradient which causes you to have to step up to go over it and step back down again. He would like to create a nice transition, avoiding the root of the large oak tree, to continue to have function on the railway. They are proposing a lower wall to provide a transition to the neighboring sea wall and a platform upon which the property owner can launch small boats out. He noted that they are not changing the mass or volume of the structure; they are just moving the higher wall shoreward and leaving the lower wall.

- Discussion

Ms. Grinnell commented that she did not believe that the project is a replacement in-kind. They are raising the level of the wall and building another wall that does not exist. She encouraged the Board to have a site walk and a public hearing. Mr. Lawrence agreed and noted that he would like to see the property in person. Mr. Grenier agreed with both points. Ms. Grinnell added that they also have an issue with the neighbor concerned about the wall changing the water current and having water splash on and deteriorate the wall.

Mr. Lawrence asked Mr. Baker about rock weed on the property and they discussed the removal of the wall and of the timber on the marine railway which would impact the rock weed. Mr. Lawrence also asked for clarification on the height of the current wall since it does not look in the picture to be as tall as the plan says it is. Mr. Baker noted that the wall has sagged and they are replacing it to its original height and raising it in some areas.

Ms. Grinnell moved to accept the application and to schedule a site walk for Monday, September 28th at 5:00 p.m. and a public hearing for Thursday, October 1st. She noted that she would like to see the application amended to no longer be a replacement in-kind at the public hearing. Mr. Lawrence seconded the motion.

Motion carried: 7-0-0.

Ms. Grinnell amended her motion to state that: the Kolod sea wall replacement application is not an in-kind application, it is a full application. Mr. Lawrence approved the amended motion.

Amended motion carried: 7-0-0.

5. Public Segment

Ms. Philbrook opened public comment.

Milton Hall approached the podium to discuss what the application fee entails and who receives it. Mr. Hall commented that abutters notices should only be received by people on the water and not those in the exterior area. He noted that there are two illegal moorings on the Isle of Shoals which are entirely under water at high tide. He added that a speed sign had been moved. Derek responded to his concerns informing him that they were aware of the sign being moved by high tide and that they will add a couple more feet to the line next year and remark it. Mr. Hall commented that at high tide the Traip floats are at a 25 degree angle which poses a safety concern. Derek responded that they were looking into it and the DPW will help fix the situation.

Ms. Philbrook closed public comment.

6. Rules and Regulations

Ms. Philbrook commented that a workshop has been scheduled for September 21st at 6:00 p.m. with the Town Council to update them on progress, challenges and other issues. She requested that everyone make an effort to be there. Ms. Grinnell asked if the meeting had to do with the one year deadline that the Town Council gave the KPA to get organized as a group. Ms. Philbrook responded that she herself requested the meeting to open a line of communication with the Council, discuss state statutes regarding the KPA and determine who the Harbormaster answers to. She added that they would also address a legal fees budget for the KPA since they have not had one in the past.

Mr. Hall commented that state statutes override Town rules. Ms. Philbrook noted that if the Town Council did not want to follow state statute then they can either dissolve the Port Authority and create a Harbor Commission or come up with something else. She noted that it would not be in the best interest of the voters or taxpayers to dissolve the Port Authority. Mr. Whitman commented that if they are not all certain what should be discussed at the meeting then it would not make sense to have the meeting. Ms. Philbrook responded that the purpose of the meeting is to work through hurdles that they have been experiencing. She gave an example of Derek's evaluation and the process it entails. Mr. Whitman asked if the Town Council was the right group to discuss their challenges with. Mr. Philbrook noted that the Town Council oversees every department. Ms. Grinnell commented that she is unsure of the role of the Chair of the KPA as it is different than her role on the Planning Board. She noted that the duties the role entails far exceed what should be expected, especially since Ms. Philbrook is an unpaid volunteer. After some discussion about rules and statutes, Mr. Grenier suggested they set up a meeting with the Town Manager first, before meeting with the Town Council.

**Ms. Philbrook requested a vote of who supports the September 21st meeting.
The vote was a draw: 3-3-1 with Ms. Philbrook abstaining.**

Ms. Philbrook noted that they would cancel the September 21st meeting with the Town Council and set up a meeting with the Town Manager instead.

Ms. Philbrook commented that they should schedule workshops to review and reword the rules and regulations and bring them to a vote. She noted that they needed to begin discussing the issuing of new moorings right away. Ms. Grinnell responded that there was a moratorium on the issuance of new moorings until December 31st of this year and Ms. Philbrook stated that they need to sort out what will happen after the moratorium is lifted. The Board decided on a date of September 14th at 5:00 p.m. to hold the workshop.

7. Board Members New and Old Business/Action List

On-Line Moorings.com

Mr. Whitman commented that he would like to schedule a public hearing for Online Moorings. Ms. Philbrook responded that they needed something in writing that outlined the pages of the rules and regulations, what the fees are, who is responsible for the fees, etc. Mr. Whitman noted that he would work with Derek to create the document. Ms. Philbrook asked for an

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informal vote from each Board member to see if they were for or against Online Moorings.com. Mr. Lawrence, Mr. Crawford and Ms. Philbrook stated that they were not in support of the idea. Mr. Drummond commented that he was still on the fence, Ms. Grinnell noted that she needed more information and Mr. Whitman fully supported the idea.

Ms. Philbrook commented that she received an email from a real estate agent regarding the property at 9 Duncan Way. They have a dock that is in terrible disrepair and she wanted to know about repairing or replacing it and the restrictions that would be considered. Mr. Whitman and Ms. Grinnell both commented that she needs to go through the formal channels and submit an application.

8. Adjourn

Motion to adjourn was made by Ms. Grinnell and seconded by Mr. Lawrence and Mr. Whitman. Meeting adjourned at 8:15 p.m.